

1 HOUSE BILL NO. 756
2 INTRODUCED BY E. STAFMAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AUTOMATIC VOTER REGISTRATION WITH
5 AN OPT-OUT PROVISION; PROVIDING FOR THE SECURE TRANSFER OF VOTER REGISTRATION
6 INFORMATION FROM THE DEPARTMENT OF JUSTICE AND THE DEPARTMENT OF PUBLIC HEALTH
7 AND HUMAN SERVICES TO THE SECRETARY OF STATE AND THE COUNTY ELECTION
8 ADMINISTRATORS; PROVIDING A LIMITATION ON INFORMATION SHARING; PROVIDING FOR A
9 PROVISIONAL ELECTOR TO BECOME A REGISTERED ELECTOR; PROVIDING RULEMAKING
10 AUTHORITY; AMENDING SECTIONS 13-2-110, 13-2-205, 13-2-222, 53-2-105, AND 61-5-107, MCA; AND
11 PROVIDING EFFECTIVE DATES."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana
16 Automated Voter Verification Act".

17
18 NEW SECTION. **Section 2. Automatic voter information transfer when applying for new or**
19 **updated driver's license or state identification card.** (1) (a) (i) At the time of processing an application for a
20 driver's license or motorcycle endorsement under 61-5-107 or a state identification card under 61-12-501 or an
21 application to renew, update, correct, or replace a driver's license, motorcycle endorsement, or state
22 identification card, the department of justice shall use information in the statewide voter registration database to
23 determine whether the applicant is already registered to vote and check whether complete information is in the
24 database.

25 (ii) At the time of processing an application for public assistance as defined in 53-2-101, the
26 department of public health and human services shall use information in the statewide voter registration
27 database to determine whether the applicant is already registered to vote and check whether complete
28 information is in the database.

1 (b) If the check of the statewide voter registration database indicates that the applicant is
2 registered to vote, but the information provided in the application is different or more complete than the
3 applicant's information in the statewide voter registration database or the applicant is an inactive or provisionally
4 registered elector, the department of justice or the department of public health and human services, utilizing an
5 automated system or database that provides for the electronic transfer of information, shall provide for the
6 secure electronic transfer to the secretary of state of the applicant's full name, date of birth, driver's license or
7 state identification number, residence address, mailing address, if different from the residence address, county
8 of residence, and an electronic image of the person's signature.

9 (c) If the check of the statewide voter registration database indicates that the applicant is not
10 registered to vote and the applicant provides affirmation of United States citizenship and is of sufficient age to
11 register to vote, the department of justice or the department of public health and human services, utilizing an
12 automated system or database that provides for the electronic transfer of information, shall provide for the
13 secure electronic transfer to the secretary of state of the applicant's full name, date of birth, driver's license or
14 state identification number, residence address, mailing address, if different from the residence address, county
15 of residence, and an electronic image of the person's signature.

16 (d) If the check of the statewide voter registration database indicates that the applicant is not
17 registered to vote, but the applicant provides an affirmation proving the applicant is not a United States citizen,
18 the department of justice or the department of public health and human services may not transfer the
19 applicant's information to the secretary of state, and the applicant may not be offered the opportunity to register
20 to vote.

21 (2) (a) If the check of the statewide voter registration database indicates that the applicant is not
22 registered to vote and the applicant does not meet the requirements of subsections (1)(c) or (1)(d), an applicant
23 who is of sufficient age to register to vote must be provided with the opportunity to register to vote as part of the
24 department of justice's or the department of public health and human services' application process.

25 (b) If the applicant indicates eligibility to register, including United States citizenship by signed
26 affidavit, and does not decline registration in accordance with subsection (2)(c), the department of justice or the
27 department of public health and human services shall provide for the secure electronic transfer to the secretary
28 of state of the applicant's full name, date of birth, driver's license or state identification number, residence

1 address, mailing address, if different from the residence address, county of residence, and an electronic image
2 of the person's signature.

3 (c) Along with the opportunity to register to vote as part of the department of justice's or the
4 department of public health and human services' application process, the department of justice and the
5 department of public health and human services shall provide applicants in accordance with this subsection
6 with:

7 (i) eligibility requirements for voter registration and a statement that if the person does not meet
8 the eligibility requirements then the person shall decline to register to vote;

9 (ii) an option that allows the applicant to decline voter registration;

10 (iii) the penalties for submission of a false voter registration application pursuant to 13-35-209;

11 (iv) a statement that, if the person declines to register to vote, the decision to decline is
12 confidential, and the information will only be used for election administration purposes; and

13 (v) a statement that, if the person registers to vote, the information and site of registration will
14 remain confidential, and the information will only be used for election administration purposes.

15 (3) Nothing in this section may be construed to amend the substantive qualifications for voter
16 registration or to require documentary proof of citizenship for voter registration.

17 (4) The system established in accordance with this section must only be used for transactions at
18 the department of justice or the department of public health and human services. It may not be used for
19 transactions at another government agency unless otherwise required in law.

20

21 **NEW SECTION. Section 3. Secretary of state to add or update voter information received from**
22 **department of justice -- notification of county election administrators.** (1) With respect to voter information
23 transferred to the secretary of state under [section 2], the secretary of state shall ensure that:

24 (a) an applicant's information is securely uploaded to the statewide voter registration database;

25 (b) if there is not already a voter information file for the applicant's information, a new voter
26 information file is created; and

27 (c) if there is an existing voter information file for the applicant, the voter information file is updated
28 with the information transferred from the department of justice.

1 (2) After an applicant's voter information file is created or updated, the secretary of state shall
2 ensure that:

3 (a) the county election administrator of the county in which the applicant resides is notified of the
4 added or updated voter information; and

5 (b) if the transferred information indicates a change of address to another county, the county
6 election administrator in the county where the applicant previously resided is notified of the address change.

7 (3) If the secretary of state determines that an applicant is not eligible to register as a legally
8 registered elector or provisionally registered elector, the secretary of state shall ensure that the information is
9 not used to register the applicant to vote.

10

11 NEW SECTION. **Section 4. County election administrator to confirm registration status.** (1)

12 After receiving notification from the secretary of state as provided in [section 3] of a new or updated voter
13 information file in the statewide voter registration database for an applicant residing in the county, the county
14 election administrator shall check the information and determine the applicant's voter registration status as
15 provided in this section.

16 (2) If the applicant's voter information is sufficient pursuant to 13-2-109 to verify the applicant's
17 eligibility for voter registration or to update the applicant's voter registration, the county election administrator
18 shall confirm that the elector is registered as a legally registered elector in the county.

19 (3) (a) If the applicant's voter information is not sufficient pursuant to 13-2-109 for the applicant to
20 be a legally registered elector or to update the applicant's voter registration, the county election administrator
21 shall confirm that the applicant is registered as a provisionally registered elector pursuant to 13-2-110(5)(b).

22 (b) An applicant who is registered pursuant to this section as a provisionally registered elector
23 because of residency requirements must be classified as a legally registered voter 30 days after the applicant's
24 application with the department of justice unless the applicant cancels the applicant's registration pursuant to
25 [section 5].

26 (4) If the applicant's voter information is not sufficient for either legal or provisional registration, the
27 county election administrator shall note the deficiencies in the statewide voter registration database and confirm
28 that the applicant is not registered to vote.

1 (5) If the applicant was an inactive elector, the county election administrator shall change the
2 elector's status to active.

3

4 NEW SECTION. Section 5. Notification to elector. (1) (a) For each elector residing in the county
5 whose voter information has been added or whose name or address has been updated in the statewide voter
6 registration database under [sections 1 through 9], the county election administrator shall send to the elector's
7 address of record by nonforwardable mail notice of the elector's voter registration status.

8 (b) The notice must contain:

9 (i) a postage-paid, preaddressed return envelope and form by which the elector may decline to
10 register as a voter or provide corrected or more complete voter registration information;

11 (ii) an explanation of the eligibility requirements to register to vote, a statement of the penalties for
12 submission of a false voter registration application under 13-35-209, and a statement that if the person is not
13 eligible, the person shall decline voter registration using the preaddressed return form;

14 (iii) a statement that, if the person declines voter registration, the decision to decline voter
15 registration remains confidential and will be used only for election administration purposes, and a statement
16 that, if a person does not decline registration, the office at which the person was registered remains confidential
17 and will be used only for election administration purposes;

18 (iv) an application pursuant to 13-1-210 for the elector to request an absentee ballot for all
19 elections in which the person is eligible to vote for as long as the elector remains qualified to vote and resides
20 at the address of voter registration; and

21 (v) information regarding how to request nondisclosure of the elector's residential address under
22 13-2-115(6) and (7).

23 (2) (a) If an elector returns the form to decline voter registration, the county election administrator
24 shall cancel the elector's voter registration.

25 (b) If an elector returns the form to correct or provide additional voter information, the county
26 election administrator shall update the elector's voter information file and registration status accordingly.

27 (c) If an elector returns the application requesting an absentee ballot for all elections in which the
28 person is eligible for as long as the elector remains qualified to vote and resides at the address of voter

1 registration, the elector must be added to the absentee ballot list maintained pursuant to 13-13-212.

2 (3) The notice provided under this section may be combined with the notice required under 13-2-
3 207.

4
5 **NEW SECTION. Section 6. Automated system requirements.** (1) The department of justice and
6 the department of public health and human services shall electronically transmit to the secretary of state the
7 information as required by [section 2] on a schedule established by the secretary of state, in a format agreed on
8 by the department of justice, the department of public health and human services, and the secretary of state,
9 and in a manner that allows election officials to review, translate, and upload the information to the statewide
10 voter registration database in a secure manner.

11 (2) The secretary of state shall establish adequate and reasonable technological security
12 requirements for the exchange or transfer of voter information between the department of justice, the
13 department of public health and human services, and the secretary of state pursuant to [sections 1 through 9].

14 (3) Before commencing any information exchange or transfer pursuant to [sections 1 through 9]
15 and no later than the date on which the exchange or transfer is required to begin, the department of justice and
16 the department of public health and human services must be in compliance with the technological security
17 requirements established by the secretary of state under this section.

18 (4) The automated system for the transfer of voter registration information must be audited for
19 quality of data prior to becoming operational and must be subject to regular audits and random checks after
20 becoming operational to ensure accuracy and reliability. The audits must be performed by experts certified by
21 the secretary of state in consultation with the department of justice.

22
23 **NEW SECTION. Section 7. Reporting requirements.** (1) Subject to subsection (2), the secretary of
24 state shall produce an annual public report that includes:

25 (a) the number of records transferred to the secretary of state by the department of justice and the
26 department of public health and human services;

27 (b) the number of persons newly added to the statewide voter registration database because of
28 records transferred;

1 (c) the number of electors whose information was updated because of records transferred, by type
2 of information updated;

3 (d) the number of electors who were moved from inactive to active status because of records
4 transferred; and

5 (e) the number of persons who declined voter registration.

6 (2) Reports produced in accordance with this section must exclude any personal identifying
7 information.

8

9 **NEW SECTION. Section 8. Violation only if action is intentional, voluntary, and knowing.** The
10 transfer of information pursuant to [sections 1 through 9] for an applicant who is not eligible to register to vote is
11 not in or of itself a violation of 13-35-207, 13-35-209, or 13-35-210. An applicant whose information was
12 transferred and who becomes a registered elector pursuant to [sections 1 through 9] but who is not eligible to
13 be a registered elector is not in violation of 13-35-209 prohibiting fraudulent registration unless the applicant
14 took intentional, voluntary action to register to vote knowing that the applicant was not eligible to register to
15 vote. If the registration is processed, it is presumed to have been officially authorized by the state, and the
16 person is not subject to any penalty under this code, except as specified in this section.

17

18 **NEW SECTION. Section 9. Rulemaking and coordination.** (1) The department of justice, the
19 department of public health and human services, and the secretary of state shall adopt rules to administer the
20 provisions of [section 2].

21 (2) The secretary of state shall adopt rules to administer the provisions of [sections 3 through 6].

22 (3) The department of justice, the department of public health and human services, and the
23 secretary of state shall coordinate as necessary to administer the provisions of [sections 1 through 9].

24

25 **Section 10.** Section 13-2-110, MCA, is amended to read:

26 **"13-2-110. Application for voter registration -- sufficiency and verification of information --**
27 **identifiers assigned for voting purposes.** (1) An individual may apply for voter registration in person or by
28 mail, postage paid, by completing and signing the standard application form for voter registration provided for in

1 13-1-210 and providing the application to the election administrator in the county in which the elector resides.

2 (2) Each application for voter registration must be accepted and processed as provided in rules
3 adopted under 13-2-109.

4 (3) Except as provided in subsection (4), an applicant for voter registration shall provide the
5 applicant's:

6 (a) Montana driver's license number;

7 (b) Montana state identification card number issued pursuant to 61-12-501; or

8 (c) the last four digits of the applicant's social security number.

9 (4) (a) If an applicant is unable to provide information in accordance with subsection (3), the
10 applicant shall provide as an alternative form of identification:

11 (i) a military identification card, a tribal photo identification card, a United States passport, or a
12 Montana concealed carry permit; or

13 (ii) (A) any other form of photo identification, including but not limited to a school district or
14 postsecondary education photo identification with the individual's name; and

15 (B) a current utility bill, bank statement, paycheck, government check, or other government
16 document that shows the individual's name and current address.

17 (b) The alternative form of identification must be:

18 (i) an original version presented to the election administrator if the applicant is applying in person;

19 or

20 (ii) a readable copy of any of the required documents, which must be enclosed with the
21 application, if the applicant is applying by mail.

22 (5) (a) If information provided on an application for voter registration is sufficient to be accepted
23 and processed and is verified pursuant to rules adopted under 13-2-109, the election administrator shall
24 register the elector as a legally registered elector.

25 (b) If information provided on an application for voter registration was sufficient to be accepted but
26 the applicant failed to provide the information required in subsection (3) or (4) or if the information provided was
27 incorrect or insufficient to verify the individual's identity or eligibility to vote, the election administrator shall
28 register the applicant as a provisionally registered elector.

1 (6) Each applicant for voter registration must be notified of the elector's registration status pursuant
2 to rules adopted under 13-2-109.

3 (7) The secretary of state shall assign to each elector whose application was accepted a unique
4 identification number for voting purposes and shall establish a statewide uniform method to allow the secretary
5 of state and local election officials to distinguish legally registered electors from provisionally registered
6 electors.

7 (8) The provisions of this section may not be interpreted to conflict with voter registration
8 accomplished under 13-2-221, 13-21-221, and ~~64-5-407~~ sections 1 through 9 and as provided for in federal
9 law."

10

11 **Section 11.** Section 13-2-205, MCA, is amended to read:

12 **"13-2-205. Procedure when prospective elector not qualified at time of registration.** (1) (a)
13 Subject to subsection (2), an individual who is not eligible to register because of residence or age requirements
14 but who will be eligible on or before election day may apply for voter registration pursuant to 13-2-110 and be
15 registered subject to verification procedures established pursuant to 13-2-109.

16 (b) Subject to subsection (2), an individual who is not eligible to register because of age
17 requirements but who will be eligible on or before the next general election may apply for voter registration
18 pursuant to 13-2-110 and be registered subject to verification procedures established pursuant to 13-2-109.

19 (2) Until the individual meets residence and age requirements, a ballot may not be issued to the
20 individual and the individual may not cast a ballot."

21

22 **Section 12.** Section 13-2-222, MCA, is amended to read:

23 **"13-2-222. Reactivation of elector.** (1) The name of an elector must be moved by an election
24 administrator from the inactive list to the active list of a county if an elector meets the requirements for
25 registration provided in this chapter and:

26 (a) appears at a polling place in order to vote, submits an application to vote by absentee ballot in
27 a polling place election or mail ballot election, or votes in a mail ballot election conducted under Title 13,
28 chapter 19;

1 (b) notifies the county election administrator in writing of the elector's current residence, which
2 must be in that county; ~~or~~

3 (c) completes a reactivation form provided by the county election administrator that provides
4 current address information in that county; or

5 (d) the elector's voter information has been updated in accordance with the provisions of [sections
6 1 through 9].

7 (2) After an elector has complied with subsection (1)(a), (1)(b), ~~or (1)(c)~~, or (1)(d), the county
8 election administrator shall place the elector's name on the active voting list for that county.

9 (3) An elector reactivated pursuant to subsection (1)(a) is a legally registered elector for purposes
10 of the election in which the elector voted."
11

12 **Section 13.** Section 53-2-105, MCA, is amended to read:

13 **"53-2-105. Misuse of public assistance information unlawful.** Except as provided in [sections 1
14 through 9] and 53-2-211, it is unlawful for a person, body, association, firm, corporation, or other agency to
15 solicit, disclose, receive, or make use of or to authorize, knowingly permit, participate in, or acquiesce in the use
16 of lists or names for commercial or political purposes of any nature or for any purpose not directly connected
17 with the administration of public assistance. However, the department may, to the extent permitted by federal
18 law, disclose public assistance information to an agency of the state or to any other organization if the
19 information is used solely for purposes directly connected with the administration of a program or purpose of
20 the agency."
21

22 **Section 14.** Section 61-5-107, MCA, is amended to read:

23 **"61-5-107. Application for license or motorcycle endorsement.** (1) Each application for a learner
24 license, driver's license, commercial driver's license, or motorcycle endorsement must be made on a form
25 furnished by the department. Each application must be accompanied by the proper fee, and payment of the fee
26 entitles the applicant to not more than three attempts to pass the examination within a period of 6 months from
27 the date of application. ~~A voter registration form for mail registration as prescribed by the secretary of state~~
28 ~~must be attached to each driver's license application. If the applicant wishes to register to vote, the department~~

1 ~~shall accept the registration and forward the form to the election administrator.~~

2 (2) Each application must include the full legal name, date of birth, sex, residence address of the
3 applicant [and the applicant's social security number], must include a brief description of the applicant, and
4 must provide the following additional information:

5 (a) the name of each jurisdiction in which the applicant has previously been licensed to drive any
6 type of motor vehicle during the 10-year period immediately preceding the date of the application;

7 (b) a certification from the applicant that the applicant is not currently subject to a suspension,
8 revocation, cancellation, disqualification, or withdrawal of a previously issued driver's license or any driving
9 privileges in another jurisdiction and that the applicant does not have a driver's license from another jurisdiction;

10 (c) a brief description of any physical or mental disability, limitation, or condition that impairs or
11 may impair the applicant's ability to exercise ordinary and reasonable control in the safe operation of a motor
12 vehicle on the highway;

13 (d) a brief description of any adaptive equipment or operational restrictions that the applicant relies
14 upon or intends to rely upon to attain the ability to exercise ordinary and reasonable control in the safe
15 operation of a motor vehicle on the highway, including the nature of the equipment or restrictions; and

16 (e) if the applicant is a foreign national whose presence in the United States is temporarily
17 authorized under federal law, the expiration date of the official document issued to the applicant by the bureau
18 of citizenship and immigration services of the department of homeland security authorizing the applicant's
19 presence in the United States.

20 [(3) The department shall keep the applicant's social security number from this source confidential,
21 except that the number may be used for purposes of subtitle VI of Title 49 of the U.S.C. or as otherwise
22 permitted by state law administered by the department and may be provided to the department of public health
23 and human services for use in administering Title IV-D of the Social Security Act.]

24 (4) (a) When an application is received from an applicant who is not ineligible for licensure under
25 61-5-105 and who was previously licensed by another jurisdiction, the department shall request a copy of the
26 applicant's driving record from each jurisdiction in which the applicant was licensed in the preceding 10-year
27 period. The driving record may be transmitted manually or by electronic medium.

28 (b) When received, the driving records must be appended to the driver's record created and

1 maintained in this state. The department may rely on information contained in driving records received under
2 this section to determine the appropriate action to be taken against the applicant upon subsequent receipt of a
3 report of a conviction or other conduct requiring suspension or revocation of a driver's license under state law.

4 (5) An individual who is under 26 years of age but at least 15 years of age and who is required to
5 register in compliance with the federal Military Selective Service Act, 50 App. U.S.C. 453, must be provided an
6 opportunity to fulfill those registration requirements in conjunction with an application for a learner license,
7 driver's license, commercial driver's license, or state identification card. If under 18 years of age but at least 15
8 years of age, an individual must be provided an opportunity to be registered by the selective service system
9 upon attaining 18 years of age. Any registration information supplied on the application must be transmitted by
10 the department to the selective service system. (Bracketed language terminates on occurrence of contingency--
11 sec. 1, Ch. 27, L. 1999.)"

12

13 **NEW SECTION. Section 15. Codification instruction.** [Sections 1 through 9] are intended to be
14 codified as an integral part of Title 13, chapter 2, and the provisions of Title 13, chapter 2, apply to [sections 1
15 through 9].

16

17 **NEW SECTION. Section 16. Effective dates.** [This act] is effective the earlier of:

18 (1) January 1, 2025; or

19 (2) 5 days after the secretary of state notifies the code commissioner that the automated system
20 and information technology infrastructure required to implement the provisions of [sections 1 through 9] are
21 functional.

22

- END -